

**SUBCHAPTER GG. Minimum Reserve Standards for Individual
and Group Accident and Health Insurance**

28 TAC § 3.7001

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §3.7001, concerning the minimum reserve standards for individual and group accident and health insurance. Section 3.7001 implements Insurance Code §425.072.

EXPLANATION. Amending §3.7001 is necessary for the following two reasons: (1) to comply with Insurance Code §425.072(a), which requires using the valuation manual for setting reserves on accident and health insurance policies issued on or after the operative date; and (2) to provide for the same claim reserve requirements on all new claims under accident and health insurance policies, regardless of the policy's issue date.

The valuation manual currently provides claim reserve requirements for accident and health insurance policies issued on and after the operative date of the valuation manual (operative date), which was January 1, 2017. Senate Bill 1654, 84th Legislature, Regular Session (2015), requires insurers use the valuation manual for reserve requirements for policies issued on and after the operative date. It also provides that policies issued prior to the operative date use the reserve requirements "in existence prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule." Amending the rule to align the claim reserve requirements for policies issued prior to the operative date with those claim reserve requirements of the valuation manual will adopt the same claim reserve requirements, regardless of the issue date, which is consistent with the intent of SB 1654.

Section 3.7001 provides the scope and general standards for coverages in Subchapter GG, which addresses the minimum reserve standards for individual and group accident and health insurance. Minimum reserve standards are technical requirements, such as morbidity tables and appropriate assumptions, that are used by actuaries to determine the amount of claim reserves an insurer needs to hold. Amending §3.7001 is necessary to comply with Insurance Code §425.072 for policies issued after the operation date. The amendments are also necessary to provide for the same claim reserve requirements regardless of issue date.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jamie Walker, deputy commissioner of the Financial Regulation Division, has determined that for each year of the first five years the proposed amendment is in effect, there will be no measurable fiscal impact on state and local governments as a result of the enforcement or administration of this proposal.

Ms. Walker does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendment is in effect, Ms. Walker expects that administering the proposed amendment will have the public benefit of ensuring that TDI's rules both conform to Insurance Code §425.072 and provide updated reserving requirements.

Ms. Walker expects that the proposed amendment will not increase the cost of compliance with Insurance Code §425.072. Insurance Code §425.072 addresses the minimum valuation requirements for accident and health insurance contracts. Insurance Code §425.072(a) requires using the valuation manual for policies issued on and after the operative date, and Insurance Code §425.072(b) requires using the reserve requirements in existence prior to the operative date, in addition to any requirements established by the Commissioner and adopted by rule for policies issued prior to the operative date. As a result, the cost associated with calculating reserves already exists. Amending this rule will simplify reserving requirements because insurers will use the same claim reserve calculations, regardless of whether the policy was issued before or after the operative date, which will likely reduce the cost of compliance with Insurance Code §425.072.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendment will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. Amending this rule provides greater uniformity for claim reserves requirements and simplifies processes within all insurers including small and micro businesses. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a cost on regulated persons.

GOVERNMENT GROWTH IMPACT STATEMENT. During the first five years that the proposed rule would be in effect, the proposed rule or its implementation:

- Will not create or eliminate a government program.
- Will not require the creation of new employee positions or the elimination of existing employee positions.
- Will not require an increase or decrease in future legislative appropriations to the agency.
- Will not require an increase or decrease in fees paid to the agency.
- Will not create a new regulation.
- Will not expand, limit, or repeal an existing regulation because insurers are already subject to minimum valuation requirements.
- Will not increase or decrease the number of individuals subject to the rule's applicability.
- Will not affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal received by the department no later than 5 p.m., Central time, on July 16, 2018. TDI requires two copies of your comments. Send one copy to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Send the other copy to fin-gm@tdi.texas.gov; or to Jamie Walker, Deputy Commissioner, Financial Regulation Division, Mail Code 112-1F, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

SUBCHAPTER GG.

28 TAC §3.7001.

STATUTORY AUTHORITY. TDI proposes to amend §3.7001 under Insurance Code §§425.072, 421.001, and 36.001.

Insurance Code §425.072 provides the minimum standard of valuation for disability, accident and sickness, and accident and health insurance contracts. The standard for contracts issued on or after the operative date is the valuation manual and the standard for contracts issued before the operative date is the standard in existence before the operative date in addition to any requirements established by the Commissioner and adopted by rule.

Insurance Code §421.001(a) and (b) require insurers to maintain reserves for losses or claims as well as the expenses to adjust or settle those losses or claims. Insurance Code §421.001(c) requires that the Commissioner shall adopt each current formula recommended by the National Association of Insurance Commissioners for establishing reserves for each line of insurance.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The proposed amendments to §3.7001 implement Insurance Code §425.072(b), enacted by SB 1654, 84th Legislature, (Regular Session) (2015).

TEXT.

§3.7001. Introduction.

(a) Scope and general standards.

(1) Pursuant to Insurance Code §425.072, all individual and group accident and health insurance coverages, including single premium credit accident and health insurance contracts, issued on and after January 1, 2017, are required to follow the standards and reserve requirements provided in the valuation manual adopted by the department pursuant to Insurance Code §425.073.

(2) In establishing claim reserves for all individual and group accident and health insurance coverages issued before January 1, 2017, and single premium credit accident and health

insurance contracts issued on or after January 1, 2009 and before January 1, 2017, the provisions of this paragraph apply. An insurer may use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2016, and before January 1, 2019, and must use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2018.

(3) Unless paragraphs (1) or (2) of this subsection applies, the [These] standards in this subchapter apply to all individual and group accident and health insurance coverages issued before January 1, 2017, as well as [,-including] single premium credit accident and health insurance contracts issued on or after January 1, 2009 and before January 1, 2017. All other credit insurance is not subject to the requirements provided by this paragraph [these standards].

(4) [(2)] When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified in this subchapter, such increased reserves must be held and must be considered the minimum reserves for that insurer.

(5) [(3)] With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation would take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

(6) [(4)] Such a gross premium valuation must be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition must be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) must be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under the [these] standards required under this subchapter.

(7) [(5)] Whenever minimum reserves, as defined in this subchapter [these standards], exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

(b) Categories of reserves. The following sections set forth minimum standards for three categories of health insurance reserves: §3.7002 of this title (relating to Claim Reserves); §3.7003 of this title (relating to Premium Reserves); and §3.7004 of this title (relating to Contract Reserves). Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three categories combined. However, the standards in these sections emphasize the importance of determining appropriate reserves for each of the three categories separately.

(c) Sections 3.7006, 3.7007, 3.7008, and 3.7009. Section 3.7006 and §3.7007 of this title (relating to Specific Standards for Morbidity, Interest, and Mortality; and Glossary of Technical Terms Used) are an integral part of the standards specified in §§3.7001 - 3.7005 of this title (relating to Introduction; Claims Reserves; Premium Reserves; Contract Reserves and Reinsurance). Section 3.7008 of this title (relating to Reserves for Waiver of Premium) is supplementary and is not part of the standards as such, but is included for explanatory and illustrative purposes only. Section 3.7006 of this title contains specific minimum standards with respect to morbidity, interest, and mortality, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue. Section 3.7007 of this title consists of a glossary of technical terms used. Section 3.7008 of this title is supplementary and deals with waiver of premium reserves. For the purchase of existing business under certain circumstances, see §3.7009 of this title (relating to Purchase or Assumption of Existing Business).

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on May 29, 2018.

/s/ Norma Garcia
Norma Garcia, General Counsel
Texas Department of Insurance